IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.161 OF 2005
IN
FAMILY COURT APPEAL NO.111 OF 2005

Vijay Lallubhai Mehta ...Applicant.

V/s.

Sanjeshni Geeta Vijay Mehta ...Respondent.

Mr.Atul Rajadhykasha with Mr.R.S. Datar for the Applicant.
Mr.R.S.Kate for the Respondent.

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI, JJ.
DATE : 27th September, 2005.
P.C.:

1. This Civil Application seeks stay of the order of maintenance passed in Petition No.C/2/03 passed by the Family Court, Pune on 19th April, 2005. That order directed the Applicant Husband to pay Rs.20,000/- per month to the Respondent. The submission of the Applicant is that the child of the Respondent is not his child and he should not have been directed to pay maintenance of the child as well as of the Respondent.

2. Mr.Rajadhyaksha, the learned counsel appearing for the Applicant had offered to undergo a paternity test at Centre for Cellular & Molecular Biology at Hyderabad. Infact, the Respondent had also agreed on the last date and that is how certain minutes have been prepared by the

Applicant seeking an order in terms thereof. Respondent is present in the Court. Mr.Kate on her instructions states that she is not ready for the test and she would like such test to be conducted outside India.

3. It is not possible for us to distrust the institution which is quite reputed one and such samples are sent to it from various Courts in various matters throughout the India. Mr.Rajadhyaksha therefore submits that obviously, Respondent is not sure about her position and an adverse inference be drawn. We can see merit and his submissions and therefore, there will be stay in terms of prayer clause (a).

4. It would not be out of place to record that in the Family Court also, Respondent had declined to undergo paternity test. In view of this order, the Applicant will not be required to pay maintenance hereafter.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI, J.)